

Libby Community Advisory Group

Meeting Summary

August 14, 2008

Introductions

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. A list of the members in attendance is attached below as Appendix 1.

Agenda

The CAG agreed to the following agenda for this meeting:

- Review of the June 12, 2008 and July 10, 2008 meeting summaries
- Old Business
 - Letter to the EPA Administrator
 - LAMP report
- New Business
 - Health care funding issue
 - “Over-regulation” of construction activities
- Agency Reports
- Public Comment
- Next Meeting Agenda

Meeting Summary Review

June 12, 2008

Audience Member Comment - As noted in the meeting summary, I did not get an answer to my question about how much money has been spent on mesothelioma research. I would still like an answer.

Audience Member Comment - On page 5, one of the audience comments stated, in part, “State and local governments failed us.” It should have stated that the federal government failed us. The lead federal agency looked the other way.

Audience Member Comment - This same comment stated that, “We need health care and quality medical insurance or else the research will be worthless.” Rather than “worthless” I said it would be “flawed”. Health insurance must be available to everyone on an equal basis.

CAG Member Question - Why would the research be flawed?

Answer - Wealthy people can afford quality medical insurance. Poor people are covered by the Medicaid safety net. People with middle incomes sometimes cannot afford quality medical insurance. Without providing quality insurance to all, we will create two classes of people, those with and those without quality medical insurance. These two classes would skew research.

Audience Member Comment - For eight years, the cleanup work here has been touted as the “best science”. It would not be the best science if one group is left out of the research.

Audience Member Comment - For 40 years, politicians have garnered votes by raising the issue of universal health care, and yet they have failed to round up health care for the population exposed to asbestos in Libby.

Audience Member Comment - Pages 7 and 8 of the summary covered the discussion of the settlement agreement between the State of Montana and W.R. Grace. Catherine LeCours is reported to have said that the agreement settles the State's claims "regarding the Libby Superfund site, with the exception of the mine, Operable Unit 3". However, when asked about the definition of the area for which settlements funds can be spent, the answer quoted a portion of the agreement as follows:

Libby Asbestos Site" or "Libby Site" shall mean the Zonolite Mine and all areas (including any structure, soil, air, water, sediment, or receptor) in or near Lincoln County, Montana, that have been contaminated by natural or human caused migration of hazard substances and/or pollutants or contaminants from such property, including, but not limited to, the mine property, the Kootenai River and sediments therein, Rainey Creek, Rainey Creek Road, and areas in which tree bark is contaminated with such hazardous substances, and/or pollutants or contaminants.

Ms. LeCours' statement and the quoted portion of the settlement agreement appear to be contradictory regarding the mine.

Response by Catherine LeCours - I do not have a copy of the settlement agreement with me tonight. I am not willing to attempt to explain the quoted text without a copy of the actual settlement agreement. I will report back on this at the next meeting.

July 10, 2008 Meeting Summary

CAG Member Comment - The first CAG member question on page 6 of the summary was, "Will the Operation and Maintenance Working Group recommend that a permit be required before digging?" The answer reported in the summary did not answer my question. My understanding is that the O&M Working Group is considering 45 pages of regulations. I need an answer to my question.

CAG Member Comment - Another question reported in the summary that was not answered was, "What happens if a contractor does unearth contamination but the property owner just says cover it up and keep on working?" I also need an answer to this question.

CAG Member Comment - I felt that Paul Peronard threatened my business, which I did not appreciate.

CAG Member Comment - Regarding the Asa Wood School, the summary states that, "Vermiculite was not found along the bike/walking path at Asa Wood Elementary. The most recent vermiculite was discovered by the old swing set area." The swing set is immediately adjacent to the walking path which, as I noted, was built with the same gravel used in rebuilding Highway 37. Jim Christiansen told us that all samples taken along Highway 37 contained asbestos fibers. However, when the Montana Department of Transportation sampled Highway 37, no asbestos was detected. My questions regarding Highway 37 have not been answered. In 1999, Gayla Benefield publically raised the issue of contaminated rocks along the creeks. This

also was not addressed.

Response by Mike Cirian - I was not present at the meeting and do not know exactly what was said at it. However, vermiculite was not found on the walking path. It was seen at the swing set separated from the walking path by a jersey barrier.

CAG Member Question - Was sampling conducted on the walking path?

Answer by Mike Cirian - Yes.

CAG Member Question - Will activity based sampling be conducted at Asa Wood?

Answer by Mike Cirian - No. We will do air sampling at the school this fall when the school session resumes and children are present.

CAG Member Question - Will the school asbestos abatement plan address the walking path?

Answer by Kirby Maki - I was present when the EPA inspected the walking path and swing set area. Vermiculite was not found on the walking path. I offered to pay to have the path gouged and sampled. Maybe we should rip out the path and sample. It needs to be re-paved. The school district is trying to ensure the safety of the children. We know that the concrete blocks in the school walls contain vermiculite and are concerned about it. We are looking at a plan to replace the school.

CAG Member Comment - Mr. Maki did ask me to cover up the walking path. I responded that it should be EPA's responsibility.

CAG Member Question - What about the school's asbestos management plan?

Answer by Kirby Maki - Vermiculite is part of the plan and the plan calls for keeping it covered up.

CAG Member Question - Will the asbestos management plan address the walking path?

Answer - We observe the walking path every day.

CAG Member Comment - The next step at the schools should be activity based sampling.

Audience Member Question - When was the last time sampling occurred at the Asa Woods school?

Answer by Mike Cirian - I think it was 2001 or 2002. We have scheduled additional sampling this fall.

Audience Member Question - Was this sampling part of the 2002-2003 remediation?

Answer - Correct.

Audience Member Question - EPA has told us that the PLM-VE (polarized light microscopy - visual vstimation) sampling technique backed by activity based sampling constitutes the best available science. The previous sampling at the schools was conducted with PLM (polarized light microscopy) which is not the best technique to protect public health. Paul Peronard has also told us that PLM-VE is not sensitive enough to protect human health.

CAG Member Comment - Issues have been repeatedly raised about flawed science and the lack

of a risk assessment, but we have not made progress because we have not followed up on these issues. Two hours in a CAG meeting is not enough.

Audience Member Comment - Our young people are the portion of our population most at risk from exposure to asbestos. Children were allowed to remain on the school grounds throughout the remainder of the year after visible vermiculite was found.

Audience Member Comment - I want the summary of this meeting to reflect that sampling has not been conducted at ASA Wood School since 2002-2003, the analytical technique used at that time was inadequate, and activity based sampling is not planned.

Audience Member Comment - Discovery of visible vermiculite triggers cleanup under the existing cleanup criteria. At the very least, the discovery at ASA Woods should have led to sampling on a 10 X 10 grid.

CAG Member Question - What happened when the county made a complaint to EPA about the discovery a couple of vermiculite flakes in front of the court house?

Answer by Mike Cirian - More than a couple of flakes were found. We responded and asked the county what it wanted done.

CAG Member Comment - EPA responded quickly and thoroughly when 500 people were walking on the court house grass. I am concerned about this response versus kids at ASA Woods School.

CAG Member Comment - EPA posted the creeks after asbestos was discovered in the rocks on the creek bank, but the golf course and ASA Woods were not posted.

Response by Mike Cirian - EPA responded within seven minutes when the wall was punctured at ASA Wood School. Within one half hour, the spill was cleaned up. Within 3 hours, the contaminated material was bagged and removed. Flakes of vermiculite were found when posts were pulled at the old swing set. We cleaned up the vermiculite and did not find any more. We have scheduled additional sampling at ASA Woods and all of the Libby Schools. We are presently designing the sampling to be carried out when the kids are at the school. Our responses after the wall was punctured and when the visible flakes were found at the swing set were consistent.

CAG Member Question - Do you know if you got all of the vermiculite at the swing set?

Answer - No.

Audience Member Comment - Waiting until school resumes means that EPA is using the school kids as part of the best available science.

Response by Kevin Maki - No one should have the impression that the school district does not care about the safety of the children. We are trying to develop a plan to replace ASA Woods School which we know has vermiculite in the walls. We have held six meetings to develop the plan, and we have not had people attend and express the concerns we have heard tonight.

Response by Kathleen Atencio - EPA does care about the kids, and we do have additional sampling scheduled at the schools. However, I have heard your disappointment regarding the situation at the schools, and we need to schedule a special session to address it.

CAG Action - Those members of CAG present at this meeting agreed that EPA should schedule a separate, public meeting to discuss the situation at the schools.

CAG Member Question - Will you attend the meeting?

Answer by Kathleen Atencio - Yes.

Comment by Kathleen Atencio - Paul Peronard will be leaving his position as the Libby Team leader. He will remain in EPA at his old job of On Scene Coordinator. Senior EPA management has decided to seek a permanent replacement for the Libby Team leader and a job announcement both within and outside of EPA was issued this week. We are trying to decide how to cover this position until Mr. Peronard's replacement is hired. As Mr. Peronard's supervisor, I may cover the position. EPA is in the process of bringing together three activities into the Remedial Investigation: the toxicity studies, the sampling analyses, and the exposure study. Once a draft of the Remedial Investigation is written, it will be released for public comment. A feasibility study will also be prepared to identify the cleanup alternatives.

CAG Member Comment - I do not agree that EPA has not prioritized the schools. When it first came to Libby, the first actions that it took were to cleanup asbestos contamination at our schools.

Audience Member Comment - Page 8 of the July 10, 2008 meeting summary includes the following audience member question and answer by Paul Peronard:

Question - Is this experience similar to that of other contractors during their first year?

Answer - No. ASW is an experienced contractor and has not made a good showing.

Rather than the language "had not made a good showing", Mr. Peronard said that ASW has made a "piss poor" showing.

CAG Member Comment - We have now spent half of the meeting time just reviewing the past two meeting summaries. This kind of detailed review is not an appropriate use of CAG time. At the beginning the next meeting, we should discuss the process of reviewing meeting summaries.

CAG Member Comment - It is important for the summaries to be correct and for us to be able to review it. EPA is allowed to review a draft of the summary before it goes out. The summaries are a legal record of the meetings and are reviewed by EPA officials and Montana's Congressional delegation.

Comment by Gerald Mueller - I write the meeting summaries based on the notes that I take at the meetings. The summaries are not intended to be meeting transcriptions. Also, all presenters, not just EPA, are offered the chance to review a draft of the summary to try to ensure that its content is accurate.

Response by Ted Linnert - For the next meeting, I will see how much a court reporter-type of meeting transcription would cost.

Letter to the EPA Administrator

Gerald Mueller provided context for the CAG's consideration of a letter. When EPA Administrator Johnson visited Libby in August 2007, he argued that a declaration of a public

health emergency would not likely solve Libby's problem of finding funding for health care for victims of asbestos disease. In November 2007, the CAG wrote to Secretary Johnson asking what would be the appropriate tool if a declaration of a public health emergency would not be. By its May 8, 2008 meeting, the CAG had received a reply to its November letter from EPA Assistant Administrator Susan Bodine. The CAG was not satisfied with Ms. Bodine's response, and DC Orr volunteered to draft another letter to Administrator Johnson and the Montana Congressional delegation and Governor Schweitzer. Mr. Orr's draft was attached to the July 10, 2008 meeting summary. Bill Patten wrote an alternative version of this letter. Mr. Mueller passed out copies of both letters, and they are attached below in Appendices 2 and 3.

Mr. Orr stated that the CAG has attempted to be polite in the earlier letter, but the milk toast language did not get anywhere. The CAG needs to be more vociferous and more strident.

Mr. Patten said that he drafted an alternative version because he believed that the letter contained inflammatory and accusatory language, some of which addressed topics not on point to obtaining health care funding.

Those CAG members present voted on the two drafts, and did not unanimously support either version.

CAG Action - After a discussion, those members of CAG present at this meeting agreed to ask Mr. Orr and Mr. Patten to work together in an attempt to write a letter both could support. The CAG will reconsider a letter to Administrator Johnson at its September meeting.

Because of the lateness of the hour, work on the remainder of the meeting agenda was suspended, with the exception of a request by Tanis Hernandez, Outreach Coordinator at the Center for Asbestos Related Disease (CARD).

CARD Report

Ms. Hernandez stated that at today's ARDNet meeting, she learned that Dr. Steven Helgerson, State Medical Officer, will shortly be writing people who participated in the medical screening through the Montana Asbestos Screening and Surveillance Activity (MASSA) to notify them that the last day of screening will be September 19, 2008. The letter apparently will not state that people can continue to seek screening services through the Libby Asbestos Medical Plan (LAMP), while LAMP funding lasts. Ms. Hernandez asked the CAG to contact Dr. Helgerson to ask that he include in his letter mention of the availability of screening services through LAMP. If the letter is already written, Dr. Helgerson might write a post card follow-up providing this information.

CAG Action - After a discussion, those members of CAG present at this meeting agreed to ask Eileen Carney to call Dr. Helgerson to ask that past MASSA participants be notified of the availability of continuing screening services through LAMP, while funding lasts.

Public Comment

Audience Member Comment - Dr. Whitehouse recently published a paper in the American Journal of Industrial Medicine entitled, "Environmental Exposure to Libby Asbestos and Mesotheliomas."

Audience Member Comment - I have analyzed both drafts of the letter to EPA Administrator Johnson written by DC Orr and Bill Patten. I support the approach in Mr. Orr's letter.

Audience Member Comment - Red Busby read the following statement regarding a meeting of the committee formed to advise St. John's Hospital regarding expenditure of the \$250,000 that it receives annually from W.R. Grace:

We had a great turnout from the community. Gordon Sullivan who is our facilitator set some ground rules.

Mr. Patton was gracious enough to have light refreshments for the group. Mr. Patten was also very informative on how the \$250,000 was being spent on the asbestos patients.

Some of our topics discussed were:

- how we could better inform or educate the challenges of providing health care in a rural setting;*
- how we could be accountable to the community for the work that we would do and the decisions we make; and*
- patient concerns on how the hospital could better serve them.*

Our next meeting is going to be at the Hospital's community center again on Monday, August 18 from 6:00 to 7:30 p.m.

We welcome new members and need your input.

Next Meeting Agenda Topics

At its next meeting, the CAG will discuss the purpose and method of creating records of meetings and will continue working through the agenda of this meeting beginning with the LAMP report. It will also revisit the letter to EPA Administrator Johnson.

Next Meeting

The next meeting is scheduled for 7:00 to 9:00 p.m. on September 11, 2008 in the Ponderosa Room of Libby City Hall.

Appendix 1
CAG Attendance and Visitor List Member
August 14, 2008

Members	Group/Organization Represented
DC Orr	Libby Community
Bill Patten	St. John's Lutheran Hospital
K.W. Maki	Libby Schools
Ken Hays	Senior Citizens
Ted Linnert	EPA
Mike Cirian	EPA
Catherine LeCours	Montana Department of Environmental Quality
LeRoy Thom	Former W.R. Grace Employee
Gary Swenson	Libby Volunteer Fire Department
Dr. Brad Black	Lincoln County Health Officer
Eileen Carney	Board of Respiratory Therapists
 Visitors	
Kathleen M. Atencio	EPA
Kathryn T. Hernandez	EPA

Appendix 2

5-11-08

The Honorable Administrator Johnson;

Thank you for responding through Assistant Administrator Bodine addressing our concerns detailed in November 19, 2007 correspondence between your office and the Libby Community Advisory Group (CAG). Your Assistant Administrator's response is enclosed. You can see that this response is typical bureaucratic fare, never once addressing the pertinent issues while stressing that you are "committed" and "deeply concerned" about the challenges that we face in the nation's highest priority Superfund site caused by regulatory failure. It was a four paragraph slap in the face for the people of Libby.

We believe this issue is important enough to warrant your personal attention so we will ask again. Please give this site the attention it deserves. EPA dropped the ball in this regard thirty years ago when the first reports of health problems were coming out of Libby. Your OIG investigation claimed Libby fell through the cracks because of fragmented authority and jurisdiction, funding constraints, and competing priorities. Those of us who lived here and watched it happen know it was simply politics that created this mess. Grace was a mover and shaker in Washington; they could build or destroy agency careers. You are dropping the ball today and the cause is fairly evident. There are not enough voters in Libby to garner attention in our nation's capitol where Grace still holds considerable influence.

In our letter of Nov. 19, 2007 we specifically asked for your help in finding alternatives to the remedies a declaration of a Public Health Emergency would bring. We politely accepted your position that a declaration likely would not solve our problem. We attempted to let you off the hook on this hard question, but you wouldn't even offer us an alternative.

Had we asked the tough questions in the seventies and eighties, and held firm in our request for answers, we would not be living in THE Superfund site with the highest documented rates of environmental death and disease found anywhere in America. Your Assistant Administrator has clearly demonstrated the regulatory failures that arise out of bureaucracy that is disconnected from the people it serves. We need more than lip service out of the EPA, the culture of deception prevalent in this organization is causing problems in Libby.

Two recent incidents set the stage for your non-reply to strike a nerve in our community. Paul Peronard was asked why EPA ordered WR Grace to destroy 24,000 square feet of City-owned buildings, the cornerstone of our economic development efforts, and not require replacement. Some still think it has to do with the 12,000 square feet of buildings Grace and EPA paid for on our mayor's private property. Mr. Peronard replied that the city did not request replacements. We submitted a letter the City attorney had sent to Paul asking for replacements in May of 2001 and exposed just one more in a long line of lies coming out of the Export Plant debacle.

Ted Linnert was recently quoted telling our community that the \$250 million settlement would collect up to 20% interest in EPA accounts and would be more money than we could ever spend on cleanup in Libby. He was attempting to skew the public comments in the bankruptcy court.

When he denied making the statement, we played the tape of the meeting. Still, the damage had been done.

We asked your agency for help and you sent wolves into our midst. Your representatives performing on the ground in Libby have obviously found it easy to lie to the people of Libby. Mr. Linnert actually gives CIC instruction touting his success in Libby. Bribes, secret no-bid contracts, make sure the medical community gets some table scraps and we have a well oiled money machine. Public involvement that is restricted to those willing to crouch down and lick the hand that feeds them guarantees that local government will speed to the trough while ignoring the valid concerns of those whose health is affected.

That is where Red Busby came in. Red came to a CAG meeting to ask why there was no mechanism to care for those who slipped through the cracks in this system. He reminded us all that there is a human element in this debate. Anyone who can put themselves in his shoes for a single minute and not be moved to action has a disconnect in their humanity. His story is being played out by hundreds of our neighbors. Their cause has been harmed by those who would exploit this situation for personal gain, but their struggles are real and distressing.

The lack of a declaration of a Public Health Emergency has left you with the same “fragmented authority” that has been blamed for past dysfunction and it has left people like Mr. Busby struggling to keep their heads above water.

EPA was working toward a declaration of a Public Health Emergency 6 years ago. In December of 2001 Paul Peronard told the CAG he was drafting an action memo to that end. Your agency spent a lot of time convincing us that this action was necessary to move forward in the cleanup of our town. To now claim that it would not help us is a 180 degree turn around that harms EPA credibility. Recent disclosures that EPA cannot recover costs from Grace for work in attics exposes just one way that this dereliction of your duties is holding up work in Libby. The stalling of our risk assessment is another. We are operating under emergency procedures, without remedial protections, because of this omission, increasing exposures on the people living here. You can ignore these problems, but you do so at the risk of the health of this sensitized community.

EPA shares culpability with WR Grace in the health care challenges this town faces. The law is clear that a declaration of a Public Health Emergency is the proper mechanism to start righting the historical wrongs perpetrated in Libby. There is no reason to search for alternatives. Please let us know how we can help you get this accomplished.

Appendix 3

Community Advisory Group Libby, MT

August 4, 2008

Stephen Johnson
Administrator, U.S. Environmental Protection Agency
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Honorable Administrator Johnson;

Assistant Administrator Bodine responded to the Libby Community Advisory Group (CAG) in a letter dated November 19, 2007 addressing a number of our concerns; thank you for that response.

We have attached a copy of that letter for your convenience. As you review the letter you will see that important issues are referenced and Ms. Bodine stresses the fact that you are “committed” and “deeply concerned” about the challenges that we continue to face. While such expressions are important, we were disappointed that the letter did not provide any specifics or suggestions for how we can best move forward.

We have worked through your normal chain of command and remain confident that you agree that these issues are of the utmost important. But we have not seen any tangible results and therefore request that you devote your personal attention to these matters.

The OIG investigated the process by which our community became contaminated and concluded that “Libby fell through the cracks because of fragmented authority and jurisdiction, funding constraints, and competing priorities.” As you have learned, there have been reports coming out of Libby for more than 30 years that have highlighted our health problems! And after all of that time, far too many in our community continue to ask why there is no funding mechanism in place to provide the care needed by those who continue to “slip through the cracks” of our healthcare system.

In the past the EPA was working toward a declaration of a Public Health Emergency. In December, 2001 Paul Peronard told the CAG that he was drafting an action memo that would make such a declaration. At that point in time the EPA spent a lot of time and energy telling us that this declaration was necessary in order to move forward in the cleanup of our community. As you can certainly understand, we are frustrated and confused by the EPA’s new position on this issue.

You attended a Town Hall Meeting during your visit to Libby last year. Much of the discussion during

that meeting again centered on the idea of declaring a Public Health Emergency for the Libby area. As you heard from the many public comments, this issue is of paramount importance to the citizens of Libby and the surrounding communities. During that discussion you told us that a Public Health Emergency would not bring the healthcare resources our community needs. Accepting your assertion for the sake of discussion, our letter of November 19, 2007 asked for your help in identifying funding alternatives.

Following the Town Hall meeting we wrote to Senator Max Baucus and said, "... we respectfully ask, "If not a public health emergency then what?" If this is not the tool for caring for the victims of asbestos exposure in Libby, then we need your help and that of Administrator Johnson to please help us find the better alternative." We still need this advice and guidance and ask that you make it an immediate priority.

Because we have not had the funds necessary to meet all the healthcare needs of those who have been affected by asbestos exposure, the medical situation in Libby has steadily worsened since the discussion of declaring a public health emergency first began in 2001. The situation has been made worse because the incomes of many who have been exposed to asbestos, those who need expensive healthcare services the most, have steadily declined.

We have not been given any other information, so it still makes sense to us that the declaration of a Public Health Emergency is one of the necessary actions in order to continue to move this cleanup process forward, provide the funds necessary to fully understand the health hazards of being exposed to this asbestos fiber, and assure that anyone affected by an asbestos related disease has access to all the healthcare services they need.

We implore you; please help us find the ways to get this accomplished!

Respectfully,

Dr. Brad Black
Lincoln County Health Officer

Eileen Carney
Montana State Board of Respiratory Care

Mike Giesey
Center for Asbestos Related Disease

Kenny Hays
Libby Senior Citizens

David Latham, Editor
The Montanian

K.W. Maki
Libby Public Schools

Bill Patten
St. Johns Lutheran Hospital

DC Orr
City of Libby

Gary D. Swenson
Libby Volunteer Fire Department

Leroy Thom
Former Grace Employee

Rita Windom
Lincoln County Commissioner